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C O N F I D E N T I A L SECTION 01 OF 03 LILONGWE 000159

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DEPT FOR AF/S - E. PELLETREAU
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SUBJECT: MALAWI: SPEAKER A RELUCTANT MEDIATOR BETWEEN
OPPOSITION AND GOM

REF: 07 LILONGWE 715

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Classified By: DCM KEVIN SULLIVAN FOR REASONS 1.4 (B,D)

¶1. (C) Summary: Despite public pressure to call the next session of the National Assembly, National Assembly Speaker Louis Chimango remains stuck between President Mutharika, who wants to further delay implementation of Section 65, and the opposition, which demands immediate action on the controversial provision to penalize floor-crossers. While publicly silent over the past six months, Chimango has quietly attempted to bring together opposition and government to discuss the next session of Parliament, but to no avail. Chimango's interactions with the government and position as messenger of the government's position to the opposition has handicapped his ability to play mediator and increased distrust even among his own party. While the Malawi Law Society has agreed with the government, stating that legal injunctions still prevent the Speaker from vacating seats of floor-crossers, Chimango says the uncertainty over the legality of section 65 cannot continue until the May 2009 elections. The Speaker appealed to emboffs to support dialogue between government and opposition, and suggested using a group of prominent local clergy as mediators -- a tactic that ultimately failed during the last round of political negotiations. The U.S. Mission will explore this alternative, but is somewhat reluctant to relieve Malawian leaders of their own responsibilities. End Summary.

Speaker's Public Silence Draws Suspicion...

¶2. (SBU) Since President Mutharika dismissed Parliament in September, local NGO's, the media, and opposition leaders have increasingly called on the Speaker of the National Assembly (ref A), Louis Chimango, to convince the president to convene a new legislative session. The president has refused to call for parliament because of uncertainty about whether and how the Speaker would implement section 65 of the constitution. Section 65 appears to stipulate that the seats of approximately 40 MPs who crossed the floor to join Mutharika's Democratic Progressive Party (DPP) would have to be vacated and refilled through new elections. Chimango, himself a life-long member of the Malawi Congress Party (MCP), has largely kept quiet on the matter, not seeking to directly confront the President. Both the United Democratic Front (UDF) and his own party have publicly charged that the speaker's lack of action is a sign of support for the GOM. Some in the UDF have even called for Chimango's resignation over the matter. Media have gone further and portrayed Chimango as being in league with Mutharika, including one

paper speculating that Mutharika had offered Chimango the vice-presidency in 2009 in exchange for Chimango's support on the section 65 matter, a claim Chimango vigorously denied and which some attribute to the MCP.

But Speaker Confirms He Has Been Working Behind the Scenes

¶3. (C) On March 12, Chimango met with emboffs to discuss the current situation and described numerous attempts to convince Mutharika to call a new session of Parliament. Chimango said the business committee of the National Assembly called two meetings to discuss the next session, but government representatives did not attend. In December, Chimango penned a letter to the president to request a session of Parliament but received no reply. A second letter followed in January, but also went unanswered. In February, after several media stories featuring prominent opposition members saying "no section 65, no parliament" appeared, Mutharika countered in a nationally broadcast press conference that if the opposition insists on section 65 then government would not convene for Parliament, creating a public stalemate. Chimango told emboffs that he had gone to meet the President Mutharika to discuss the issue in late February, and had been given messages to carry to opposition leaders concerning the President's conditions for calling a new session. The Speaker indicated that he had delivered the messages to both the UDF and MCP, but was not optimistic that the initiative would prosper. He added that he viewed such mediation as outside his constitutional mandate, which includes only refereeing in Parliamentary sessions themselves. Nonetheless, in the absence of alternatives, he had agreed to transmit the President's proposals.

¶4. (C) In a separate March 12 meeting with the Ambassador, Henry Chimunthu-Banda, the GOM's leader in the National

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Assembly and one of Mutharika's closest advisors, confirmed the presidential meeting with Chimango took place. Chimunthu-Banda said that Mutharika indicated to Chimango in the meeting that there were still court injunctions in place to prevent the Speaker from legally implementing section 65, a position with which Chimango privately concurred. This meant, according to Mutharika, that there would be little purpose and significant down-side risk in terms of the public standing of the National Assembly in calling for Parliament as long as the opposition insisted on dealing with section 65 before other matters. Chimunthu-Banda contended that after last summer's contentious budget session, a new session fraught with controversy would just incite further division and turmoil in Malawi. Chimunthu-Banda also stated that Chimango told Mutharika he agreed that he could not currently legally implement Section 65.

Parliament Must Meet Regardless

¶5. (C) Chimango did not go as far in his discussion with emboffs, instead arguing that both sides should trust him to perform his duty properly concerning Section 65. Chimango agreed with opposition statements that the Constitution requires a minimum of two sessions of Parliament per year, and said that it should have in fact held more to deal with all pending business. He further said that Section 65 cannot continue to be an issue until the 2009 elections. On March 12, the Malawi Law Society (MLS), the Malawi equivalent of the Bar Association, released a statement agreeing with Chimunthu-Banda's assessment and confirming that "stay orders" (but not injunctions) preventing action on Section 65 were still in the courts, and that the Speaker cannot legally declare seats vacant in Parliament. At the same time, the MLS maintained that nothing in the courts was preventing the President and Speaker from calling a session of Parliament to conduct other business, putting the onus back on the

government and the opposition to resolve their political dispute. Chimango told emboffs that his bottom-line assessment was the same: Parliament must meet, and must meet soon, regardless of Section 65.

Pessimistic Speaker Wants Help with Mediation

¶ 15. (C) Chimango told emboffs that government and opposition leaders are still not talking, and there is a desperate need for communication between the two to resolve the impasse. Chimango commented that he had recently sent letters to both Chimunhu-Banda and John Tembo, the leader of the opposition in Parliament, about resolving the issue but lamented that his role as the messenger of the government position on the matter has increased opposition distrust of him (including, according to Chimunhu-Banda, the MCP-inspired disinformation regarding Chimango's possible selection as Bingu's choice for Vice President). Chimango said that this growing distrust has damaged his ability to play mediator in the dispute. Chimango said he would like to see foreign aid donors get more involved in the political and governance issues in Malawi, in particular through discussions with the GOM on the need for flexibility. The Speaker appealed for urgent initiative along these lines, since time for a second Parliamentary session prior to the budget session was running out, and he feared an erosion in respect for the rule of law in the country.

¶ 16. (C) He also suggested that a group of prominent local religious leaders could use their moral stature to make progress in the dispute. He also stressed that it would be crucial for any such group to include a prominent Catholic leader since Mutharika is a Catholic. A previous attempt at religious mediation in 2007 had foundered when Mutharika claimed that a narrower group of clerics had not been fully representative. (The German Agency for Technical Cooperation's (GTZ) Forum for Dialogue and Peace project quietly supported this group.)

¶ 16. (C) Comment: Chimango's message was clear: he believes outside mediation is needed to resolve the current political impasse. In the past month, pressure from elite opinion-makers including prominent NGOS has grown for some solution to bring Parliament back into session, but both the GOM and opposition leaders may believe that principled stonewalling will ultimately be more politically beneficial to them than compromise. We intend to explore with other Western embassies Chimango's suggestion that the U.S. and other donors can facilitate dialogue, perhaps in support of the clerics group. We are somewhat reluctant to relieve

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Malawian leaders of their own responsibilities, however. End Comment.
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